

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2337**

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**Introduced by Assembly Member Ammiano**

February 19, 2010

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An act to add Section 7513.75 to the Government Code, relating to investments.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2337, as amended, Ammiano. Public retirement system: investments: predatory investment practices.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan and Iran, as specified. Existing law also requires these retirement systems to sell or transfer any investments in a company with business operations in Sudan. Existing law requires these retirement systems to submit an annual report to the Legislature regarding any investments in a company with business operations in Sudan and the sale or transfer of those investments. Existing law requires the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members, officers, and employees of, and investment managers

under contract with, these retirement systems by reason of any decision to restrict, reduce, or eliminate investments in Sudan, as specified.

This bill would additionally prohibit the boards of public pension or retirement systems, as defined, from investing public employee retirement funds in a company with business operations engaged in predatory investment practices, *as defined*, that rely on, or result in, the displacement of persons residing in rent-regulated housing, *converting rent-regulated housing units to market rate units, or raising rents above regulated levels as determined by the appropriate governing authority*, in order to generate profits to investors and would require the boards to establish a policy in regard to investing in rent-regulated housing, as specified. This bill would make related legislative findings and declarations.

*Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.*

This bill would, *notwithstanding that requirement*, require these boards to report to the Legislature regarding ~~real estate investments in rent-regulated housing~~ *implementation and compliance of the above-described provisions and regarding compliance with the provisions of the rent-regulated housing investment policy by January 1, 2012, and by January 1 of every year thereafter. The bill would also require these boards to develop and implement, on or before June 30, 2011, and thereafter maintain, a policy that prohibits the investment of public employee retirement funds in predatory investment practices, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares that  
2 investments by public retirement boards in companies that engage  
3 in predatory investment practices, which rely on, or result in, the  
4 displacement of persons residing in rent-regulated housing in order  
5 to generate profits to investors, are not only harmful to the persons  
6 displaced by these practices but also to the entire community in  
7 which those persons reside.

8 (b) The Legislature further finds and declares that it is in the  
9 public's interest to enact legislation to prohibit the investment of

1 retirement funds in companies engaged in, or investing in  
2 companies engaged in, predatory investment practices that result  
3 in excessive rent increases imposed upon, or the eviction or  
4 displacement of, persons residing in rent-regulated housing.

5 SEC. 2. Section 7513.75 is added to the Government Code, to  
6 read:

7 7513.75. (a) As used in this section, the following definitions  
8 shall apply:

9 (1) "Board" means the retirement board of a public pension or  
10 retirement system, as defined in subdivision (h) of Section 17 of  
11 Article XVI of the California Constitution.

12 ~~(2) "Company" means a sole proprietorship, organization,~~  
13 ~~association, corporation, partnership, venture, or other entity, its~~  
14 ~~subsidiary or affiliate that exists for profitmaking purposes or to~~  
15 ~~otherwise secure economic advantage.~~

16 ~~(3) "Invest" or "investment" means the purchase, ownership,~~  
17 ~~or control of stock of a company, association, or corporation, the~~  
18 ~~capital stock of a mutual water company or corporation, corporate~~  
19 ~~bonds or other debt instruments issued by a company, or the~~  
20 ~~commitment of funds or other assets to a company, including a~~  
21 ~~loan or extension of credit to that company.~~

22 ~~(4)~~

23 (2) (A) "Predatory investment practices" means investments  
24 that rely on, or result in, the displacement of persons residing in  
25 rent-regulated ~~housing~~ *housing, converting rent-regulated housing*  
26 *units to market rate units, or raising rents above regulated levels*  
27 *as determined by the appropriate governing authority*, in order to  
28 generate profits to investors. "Predatory investment practices"  
29 shall not include investment in strategies that create new, or  
30 redevelop existing, rent-regulated housing ~~units~~ *units, including*  
31 *strategies that include demolition of existing rent-regulated housing*  
32 *units*, provided that the following minimum criteria are met:

33 ~~(A)~~

34 (i) Any rent-regulated housing units that are demolished as part  
35 of the investment or project are replaced with new rent-regulated  
36 housing units.

37 ~~(B)~~

38 (ii) Any person lawfully residing in rent-regulated units who is  
39 displaced as a result of such strategies receives relocation benefits  
40 in accordance with relocation requirements as mandated by the

1 local housing authority or by state or federal laws, if applicable.  
2 However, in all cases, relocation benefits shall, at a minimum, be  
3 equal to benefits required under the federal Uniform Relocation  
4 Assistance and Real Property Acquisition Act.

5 ~~(C) Displaced tenants shall have the right to return to the~~  
6 ~~replaced, rent-regulated housing at rents not to exceed their rents~~  
7 ~~prior to displacement.~~

8 ~~(iii) The strategy is undertaken pursuant to an agreement with~~  
9 ~~a local government entity.~~

10 ~~(B) "Predatory investment practices" shall not include the~~  
11 ~~exercise of the power of sale granted under Section 2924 of the~~  
12 ~~Civil Code.~~

13 (b) The board shall develop and implement, on or before June  
14 30, 2011, and thereafter maintain, a policy ~~containing that prohibits~~  
15 ~~the investment of public employee retirement funds in predatory~~  
16 ~~investment practices. The policy shall include, but not be limited~~  
17 ~~to, the following requirements:~~

18 ~~(1) The board shall not invest public employee retirement funds~~  
19 ~~in a company that engages in predatory investment practices or~~  
20 ~~meets any of the following criteria:~~

21 ~~(A) The company invested in, or is engaged in business~~  
22 ~~operations with, entities engaged in investment or lending practices~~  
23 ~~that resulted in excessive rent increases imposed on, or the eviction~~  
24 ~~or displacement of, persons residing in rent-regulated housing.~~

25 ~~(B) The company has demonstrated complicity with business~~  
26 ~~operations that are engaged in investment or lending practices that~~  
27 ~~resulted in excessive rent increases imposed on, or the eviction or~~  
28 ~~displacement of, persons residing in rent-regulated housing.~~

29 ~~(2) The board shall make a good faith effort to identify any~~  
30 ~~private equity investments that involve companies described in~~  
31 ~~paragraph (1).~~

32 ~~(3) The board shall direct staff to review investments made~~  
33 ~~before the effective date of the policy to determine appropriate~~  
34 ~~implementation of the policy relating to existing investments. Staff~~  
35 ~~shall make a report to the board regarding existing investments~~  
36 ~~that appear inconsistent with the objectives of this policy. The~~  
37 ~~report shall describe the impacts, and anticipated impacts, of those~~  
38 ~~investments on tenants living in rent-regulated housing, and set~~  
39 ~~forth a recommended strategy to address and mitigate these impacts~~  
40 ~~consistent with the board's fiduciary duties. Thereafter, staff shall~~

1 ~~prepare an annual report to the board regarding real estate~~  
2 ~~investments in rent-regulated housing and compliance with this~~  
3 ~~policy. The annual report shall be provided to the Legislature on~~  
4 ~~or before January 1, 2012, and on or before January 1 of every~~  
5 ~~year thereafter. Any report filed pursuant to this paragraph shall~~  
6 ~~comply with Section 9795 of the Government Code.~~

7 ~~(4) Any investment proposal submitted to the pension fund, or~~  
8 ~~its agents, that involves the acquisition of occupied, rent-regulated~~  
9 ~~housing shall include a statement from the applicant stating that~~  
10 ~~the applicant has reviewed the pension fund's policy on real estate~~  
11 ~~investment strategies impacting rent-regulated housing units, and~~  
12 ~~either the proposed investment strategy does not rely on or result~~  
13 ~~in eliminating rent-regulated housing units, converting those units~~  
14 ~~to market rate units, or raising rents above regulated levels as~~  
15 ~~determined by the appropriate governing authority, or the proposed~~  
16 ~~investment does not meet the criteria set forth in subparagraph (A)~~  
17 ~~of paragraph (1).~~

18 ~~(1) A prohibition on the investment of public employee~~  
19 ~~retirement funds in predatory investment practices.~~

20 ~~(2) Principles that are consistent with the Principles for~~  
21 ~~Responsible Investment, as set forth by the United Nations, to the~~  
22 ~~extent those principles relate to responsible real property investing.~~

23 ~~(3) A statement that requires an annual report to the board if~~  
24 ~~a private real estate investment is materially inconsistent with the~~  
25 ~~objectives of the policy, regardless of whether the investment was~~  
26 ~~made prior to or after the effective date of the policy. The report~~  
27 ~~shall describe the investment, including the impacts and anticipated~~  
28 ~~impacts of those investments on tenants living in rent-regulated~~  
29 ~~housing units, as well as any impacts on investment performance.~~

30 ~~(4) A statement that requires any person or entity seeking~~  
31 ~~pension fund investments for a strategy that involves the acquisition~~  
32 ~~of occupied, rent-regulated housing (A) to agree in writing that~~  
33 ~~the proposed investment strategy complies with this policy and~~  
34 ~~does not involve predatory investment practices as defined in~~  
35 ~~subparagraph (A) of paragraph (2) of Subdivision (a), and (B) to~~  
36 ~~describe the anticipated tenant impacts of the project, if any.~~

37 ~~(5) If, after the effective date of this policy, an investment~~  
38 ~~manager makes investments that are materially inconsistent with~~  
39 ~~this section, the pension fund shall not use that manager for any~~  
40 ~~new investments.~~

1 (6) The pension fund shall adopt a complaint procedure *for*  
2 *alleged violations of this policy* that can be used by tenants  
3 occupying rent-regulated properties that are acquired with an  
4 investment from the pension fund. ~~Nonprofit organizations may~~  
5 ~~also utilize the complaint procedure for alleged violations of this~~  
6 ~~policy.~~

7 (7) The pension fund shall require that any investment partner  
8 acquiring rent-regulated property notify tenants living in the  
9 property of the existence of this policy and the complaint procedure  
10 regarding alleged violations of this policy.

11 *(c) Notwithstanding Section 10231.5, the board shall provide*  
12 *an annual report regarding implementation and compliance with*  
13 *this section, and any policy adopted pursuant to this section, to*  
14 *the Legislature on or before January 1, 2012, and on or before*  
15 *January 1 of every year thereafter. Any report filed pursuant to*  
16 *this subdivision shall comply with Section 9795.*

17 ~~(e)~~

18 *(d)* Nothing in this section shall require the board to take action  
19 as described in this section unless the board determines, in good  
20 faith, that the action described in this section is consistent with the  
21 fiduciary responsibilities of the board as described in Section 17  
22 of Article XVI of the California Constitution.